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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/528,254	03/17/2000	Glen John Anderson	1206	4416

24333 7590 01/14/2004

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EXAMINER

SAX, STEVEN PAUL

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/528,254

Applicant(s)
Anderson

Examiner
Steve Sax

Art Unit
2174



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/8/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-11, and 19-31 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-11, and 19-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. This application has been examined.
2. The amendment filed 10/8/03 has been entered. Per applicant request, claims 8, 12-18 have been cancelled.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).
4. Claims 1-20, 24-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Petrushin (6275806).
5. Regarding claim 1, Petrushin shows the information system under affective control (column 1 lines 40-50) comprising: an application program with which a user is actively engaged

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(column 3 lines 45-68), means for determining apparent affective state of the user (column 10 lines 5-11, column 11 lines 35-46, Figure 2, column 13 lines 23-41), means for changing the operation of the application program responsive to the apparent affective state of the user (column 47 lines 50-62, column 43 lines 15-40).

6. Regarding claim 2, the claim is written in the alternative and thus only one of autonomic indicator or facial expression need be shown. Petrushin shows the autonomic indicator of the voice vocal energy (column 12 lines 40-50).

7. Regarding claim 3, the application is voice user input (column 1 lines 40-55).

8. Regarding claim 4, atleast one of the input characteristics (vocal temporal features for example) are used with which the system responds. (column 12 lines 40-50).

9. Regarding claim 5, the vocal input is text (column 10 lines 25-35).

10. Regarding claim 6, text is marked based on the affective state (column 46 lines 39-55, note the display of information. The claim does not state that this need be the same text spoken and inputted by the user, mearely that text is displayed. Even so, the user password is displayed user text column 47 lines 3-22)

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11. Regarding claim 7, the text is composed by the user and transmitted (column 48 lines 15-28).
12. Regarding claim 8, when the apparaent state is questionable, the user is prompted and transmission occurs only when the user is affirmed (column 47 lines 50-68 and column 48 lines 1-28).
13. Claims 9-15 show the same features as above and are rejected for the same reasons.
14. Regarding claim 16, time elapsed between receiving a cue and speaking is used (column 12 lines 45-50).
15. Claims 17-20 show the same features as above and are rejected for the same reasons.
16. Regarding claims 21-23, word incidence and frequency are used (column 52 lines 1-25).
17. Regarding claims 24-29 and 31, these show the same features as above as well as to compose a-document. Note that this is shown as well (column 51 lines 15-32).

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18. Regarding claim 30, the user's physical use of the input device is used (column 29 lines 20-55).

19. The 1.131 Declaration does not meet acceptance for atleast the following reasons: 1) The Declaration does not point out in the Invention Disclosure Form which parts refer to which claims. It merely states a summary of the invention. 2) The description in the Invention Disclosure Form is not fully enabling of the invention claimed. 3) The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the reference to either a constructive reduction to practice or an actual reduction to practice.

20. Applicant's arguments filed have been fully considered but they are not persuasive. The Declaration is insufficient for the reasons stated above.

21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR

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1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

22. Any inquiry concerning this communication should be directed to Steve Sax at telephone number (703) 305-9582.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Sax whose telephone number is (703) 305-9582. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703) 872-9306

Official Communication

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


STEVE SAX
703/305-9582